

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SOULIDAO CHOUNLABOUNDY,

Plaintiff

v.

CORE CIVIC, *et al.*,

Defendants

Case No. 2:20-cv-01378-GMN-BNW

ORDER

I. DISCUSSION

On July 23, 2020, Plaintiff, an inmate in the custody of the Nevada Southern Detention Center ("NSDC"), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff's complaint and Plaintiff's application to proceed *in forma pauperis* are both incomplete.

Plaintiff's Complaint

Upon review, the Court notes that Plaintiff did not sign the complaint. (ECF No. 1-1 at 9). Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign the complaint, the Court cannot consider it.

As such, the Court grants Plaintiff a **one-time extension** to submit a signed amended complaint to the Court on or before **September 25, 2020**. If Plaintiff chooses to file an amended complaint, he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should file the amended complaint on this Court's approved prisoner civil rights form, and it must be entitled "First Amended Complaint."

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Plaintiff's Application to Proceed in Forma Pauperis

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff must still submit an inmate account statement for the dates he has been present at the facility.

Plaintiff has not filed an inmate account statement with this application to proceed *in forma pauperis*. As previously stated, if Plaintiff has not been at the facility a full six-month period, Plaintiff must still submit an inmate account statement for the dates he has been present at the facility. The Court is aware that officials at Nevada Southern Detention Center are capable of producing an inmate account statement for inmates present at the facility less than six months because the Court has received such statements.

Accordingly, the Court denies Plaintiff's application to proceed in forma pauperis (ECF No. 1) without prejudice because the application is incomplete.

It is important that Plaintiff understand that a financial certificate and an inmate account statement are not the same thing. Documentation concerning a financial certificate is not documentation about an inmate account statement. If Plaintiff has difficulty obtaining both a financial certificate and an inmate account statement from prison officials, Plaintiff shall file an affidavit in this case detailing when he requested both

1 documents, who he spoke to about the status of both documents, who he followed up
2 with after he did not receive both documents, and their responses. Therefore, any
3 affidavit provided by Plaintiff must document his efforts with regard to both a financial
4 certificate and an inmate account statement, not merely a financial certificate.

5 Specifically, if Plaintiff is unable to acquire the necessary documents from prison
6 officials, after making efforts to do so following receipt of this order, he must provide the
7 Court with an affidavit that demonstrates that he has done all that he could to acquire
8 both a financial certificate and an inmate account statement by the Court's deadline.
9 Plaintiff's affidavit should include dates of his requests, dates of his follow-up requests,
10 names of the prison officials that he spoke to about the matter, and their responses. If
11 Plaintiff's affidavit demonstrates that he has done all that was possible to acquire both a
12 financial certificate and an inmate account statement, the Court will consider his
13 application to proceed *in forma pauperis* complete.¹

14 Plaintiff should not file multiple letters or objections regarding these requirements
15 as this imposes an unnecessary administrative burden on the Court and delays the ability
16 of the Court to address substantive issues in cases. Plaintiff should simply file one
17 affidavit.

18 The Court will grant Plaintiff a **one-time extension** until on or before **September**
19 **25, 2020**, to file either a fully complete application to proceed *in forma pauperis* containing
20 all three of the required documents or, alternatively, the first three pages of the application
21 to proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire both
22 a financial certificate and an inmate account statement from prison officials. Absent
23 unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff
24 does not file either a fully complete application to proceed *in forma pauperis* with all three
25 required documents or, alternatively, the first three pages of the application to proceed *in*

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27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in*
28 *forma pauperis* on this Court's approved form with his affidavit. If Plaintiff does not submit
the first three pages of the application to proceed *in forma pauperis* with the affidavit, the
Court will dismiss the case without prejudice for Plaintiff to open a new case when he is
able to acquire the required documents.

1 *forma pauperis* and an affidavit detailing the efforts he took to acquire both a financial
2 certificate and an inmate account statement from prison officials on or before **September**
3 **25, 2020**, the Court will dismiss this case without prejudice for Plaintiff to file a new case
4 with the Court when Plaintiff is able to either acquire all three of the documents needed
5 to file a fully complete application to proceed *in forma pauperis* or, alternatively, the first
6 three pages of the application to proceed *in forma pauperis* and an affidavit detailing the
7 efforts he took to acquire both a financial certificate and an inmate account statement
8 from prison officials.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the
10 case with the Court, under a new case number, when Plaintiff has either all three
11 documents needed to submit with the application to proceed *in forma pauperis* or,
12 alternatively, the first three pages of the application to proceed *in forma pauperis* and an
13 affidavit detailing the efforts he took to acquire both a financial certificate and an inmate
14 account statement from prison officials. Plaintiff may also choose not to file an application
15 to proceed *in forma pauperis* and instead pay the full filing fee of \$400 on or before
16 **September 25, 2020** to proceed with this case.

17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court shall send
19 to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and
20 a copy of his original complaint. (ECF No. 1-1). If Plaintiff files an amended complaint, he
21 should use the Court's approved form and he must write the words "First Amended" above
22 the words "Civil Rights Complaint" in the caption.

23 IT IS FURTHER ORDERED that if Plaintiff chooses to file a signed amended
24 complaint, Plaintiff will file the signed amended complaint to this Court on or before
25 **September 25, 2020**.

26 IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended
27 complaint on or before **September 25, 2020**, the Court will dismiss this action without
28 prejudice for Plaintiff to refile the case with the Court, under a new case number, when

1 Plaintiff is able to file a signed amended complaint.

2 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
3 (Docket No. 1) is denied without prejudice to file either a new and fully complete
4 application to proceed *in forma pauperis* with all three documents or, alternatively, the
5 first three pages of the application to proceed *in forma pauperis* and an affidavit detailing
6 the efforts he took to acquire both a financial certificate and an inmate account statement
7 from prison officials.

8 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
9 approved form application to proceed *in forma pauperis* by an inmate, as well as the
10 document entitled information and instructions for filing an *in forma pauperis* application.

11 IT IS FURTHER ORDERED that on or before **September 25, 2020**, Plaintiff will
12 either pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and
13 the \$50 administrative fee) or file with the Court:

14 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
15 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
16 signatures on page 3),

17 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
18 official (i.e. page 4 of this Court's approved form), and

19 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
20 **previous six-month period**. If Plaintiff has not been at the facility a full six-month period,
21 Plaintiff must still submit an inmate account statement for the dates he has been present
22 at the facility.

23 Alternatively, Plaintiff will file with the Court the first three pages of the application
24 to proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire both
25 a financial certificate and an inmate account statement from prison officials.

26 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
27 application to proceed *in forma pauperis* with all three documents or, alternatively, the
28 first three pages of the application to proceed *in forma pauperis* and an affidavit detailing

1 the efforts he took to acquire both a financial certificate and an inmate account statement
2 from prison officials, or pay the full \$400 filing fee for a civil action on or before **September**
3 **25, 2020**, the Court will dismiss this action without prejudice for Plaintiff to refile the case
4 with the Court, under a new case number, when Plaintiff has all three documents needed
5 to file a complete application to proceed *in forma pauperis*.

6 DATED: July 28, 2020

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8 UNITED STATES MAGISTRATE JUDGE
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